IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16625 of 2004

Between:

M. Bharathi W/o. Chenchu Rathnaiah
Nandimala Village, Pellakur Mandal, Nellore District.

..... PETITIONER

AND

1 The Joint Collector, Nellore.
2 The Revenue Divisional Officer, Gudur, Nellore District.
3 The Mandal Revenue Officer, Pellakur, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order, direction or writ, more particularly one in the nature of writ of Mandamus declaring the order Rc.C3139/2004 dated 27.08.2004 issued by the 2nd respondent placing the authorization of the petitioner under suspension and further action of the 1st respondent in not passing any orders in the stay petition filed along with the appeal by the petitioner as illegal, arbitrary and contrary to the provisions of A.P. Public Distribution System Control Order, 2001 and set-aside the order of the 2nd respondent and pass such other order or orders.

Counsel for the Petitioner: MR.V.SUDHAKAR REDDY

Counsel for Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16625 OF 2004

ORAL ORDER :

The petitioner is an authorised dealer of the fair price shop of Nandimala Village, Pellakur Mandal, Nellore District.

This writ petition is filed aggrieved by the order passed by the 2nd respondent – Revenue Divisional Officer, Gudur, Nellore District, dated 27-08-2004 whereunder the authorisation of the petitioner was suspended pending enquiry on the allegation that the petitioner is not residing in the village in question, but residing with her husband in Venkatagiri. It appears that a show-cause notice was also served on the petitioner and the petitioner has submitted her explanation. The petitioner states that aggrieved by the order of suspension, dated 27-08-2004, she has already preferred an Appeal before the first respondent – Joint Collector, Nellore along with an application seeking stay of the impugned order of suspension on 13-09-2004. The

grievance of the petitioner is that the first respondent has not considered her application for stay so far, and in the meanwhile, the petitioner is not allowed to distribute the commodities to the cardholders. Hence, this writ petition challenging the order of suspension dated 27-08-2004.

Heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

The learned Counsel for the petitioner vehemently contends that it is always open to the respondents to conduct an enquiry and take necessary action after considering the explanation offered by the petitioner, but having regard to the nature of the allegation, the suspension of the authorization is not warranted. He also contends that the allegation that the petitioner is not residing in the village is absolutely false and baseless.

Having regard to the facts and circumstances of the case and since the statutory appeal preferred by the petitioner against the impugned order is pending before the first respondent, I am not inclined to express any opinion on the merits of the case. However, having regard to the nature of the allegations made and particularly in the absence of any allegation of diversion of stocks to black-market or any other grave allegation of misappropriation, prima facie it appears that the order of suspension is unwarranted and the balance of convenience is in favour of the petitioner. Therefore, it would be appropriate to allow the petitioner to continue as dealer till the disposal of the Statutory Appeal.

Accordingly, the Writ Petition is disposed of with a direction to the first respondent – Joint Collector, Nellore to dispose of the Appeal as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order. There shall be a further direction to the respondents to allow the petitioner to continue as the fair price shop dealer, till the appeal is disposed of. However, it shall be open to the 2nd respondent – Revenue Divisional Officer, Gudur, Nellore District to proceed with the enquiry.

The Writ Petition is accordingly disposed of. No costs.

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11th November, 2004.

ghn

To

1 The Joint Collector, Nellore.
2 The Revenue Divisional Officer, Gudur, Nellore District.
3 The Mandal Revenue Officer, Pellakur, Nellore District.

4 Two C.Cs to the Government Pleader for Revenue, High Court Buildings,

A.P., Hyderabad (OUT)

5 Two C.D copies